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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,085	10/20/2003	Lee S. Weinblatt	5264-44	4859

7590 06/15/2007

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EXAMINER
DEAN, RAYMOND S

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/690,085	WEINBLATT ET AL.	
	Examiner	Art Unit	
	Raymond S. Dean	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Drake et al. (US 2002/0078441) teaches an apparatus for monitoring an audience member tuned to a program within a broadcast signal comprising: a portable audience monitoring unit adapted to be worn by the audience member (Sections 0025, 0034, 0045, the content server is the monitoring apparatus, the content server is a computing device, which can be a variety of computing devices such as PDAs, wireless phones, and pagers, all of which can be worn by a user) including: means for detecting a code signal that forms the broadcast signal in combination with a programming signal used to perform the program, wherein the code signal corresponds to the broadcast program to which the audience member is tuned (Section 0025, the audience viewing events, which comprise signals, are the code signals), and means for storing the detected code signal (Section 0025); means for outputting the detected code signal stored in said audience monitoring unit (Section 0025, the event information can be outputted to other computing devices); and communication means for transmitting the outputted detected code signal to a central processing station (Section 0025, the event information can be transmitted to other computing devices, which comprise CPUs). Schroeder et al. (US 6,463,271) teaches a wireless phone that has CDPD capability (Col. 7 lines 46 – 63).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 – 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake et al. (US 2002/0078441) in view of Schroeder et al. (US 6,463,271).

Regarding Claim 1, Drake teaches an apparatus for monitoring an audience member tuned to a program within a broadcast signal comprising: a portable audience monitoring unit adapted to be worn by the audience member (Sections 0025, 0034, 0045, the content server is the monitoring apparatus, the content server is a computing device, which can be a variety of computing devices such as PDAs, wireless phones, and pagers, all of which can be worn by a user) including: means for detecting a code signal that forms the broadcast signal in combination with a programming signal used to perform the program, wherein the code signal corresponds to the broadcast program to which the audience member is tuned (Section 0025, the audience viewing events, which comprise signals, are the code signals), and means for storing the detected code signal (Section 0025); means for outputting the detected code signal stored in said audience monitoring unit (Section 0025, the event information can be outputted to other computing devices); and communication means for transmitting the outputted detected code signal to a central processing station (Section 0025, the event information can be transmitted to other computing devices, which comprise CPUs).

Drake does not teach wherein said communication means communicates with Cellular Digital Packet Data (CDPD).

Schroeder teaches a wireless phone that has CDPD capability (Col. 7 lines 46 – 63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify wireless phone of Drake with the CDPD capability of Schroeder for the purpose of providing a more versatile phone that enables both voice and data communications as taught by Schroeder.

Regarding Claim 2, Drake teaches a method for monitoring an audience member tuned to a program within a broadcast signal comprising: providing a portable audience monitoring unit adapted to be worn by the audience member (Sections 0025, 0034, 0045, the content server is the monitoring apparatus, the content server is a computing device, which can be a variety of computing devices such as PDAs, wireless phones, and pagers, all of which can be worn by a user); detecting with said portable audience monitoring unit a code signal that forms the broadcast signal in combination with a programming signal used to perform the program, wherein the code signal corresponds to the broadcast program to which the audience member is tuned (Section 0025, the audience viewing events, which comprise signals, are the code signals); storing the detected code signal (Section 0025); outputting the detected code signal stored in said audience monitoring unit (Section 0025, the event information can be outputted to other computing devices); and transmitting the outputted detected code signal to a central

processing station (Section 0025, the event information can be transmitted to other computing devices, which comprise CPUs).

Drake does not teach wherein said communication means communicates with Cellular Digital Packet Data (CDPD).

Schroeder teaches a wireless phone that has CDPD capability (Col. 7 lines 46 – 63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify wireless phone of Drake with the CDPD capability of Schroeder for the purpose of providing a more versatile phone that enables both voice and data communications as taught by Schroeder.

4. Claims 3 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake et al. (US 2002/0078441) in view of Hansen et al. (US 6,173,158).

Regarding Claim 3, Drake teaches an apparatus for monitoring an audience member tuned to a program within a broadcast signal comprising: a portable audience monitoring unit adapted to be worn by the audience member (Sections 0025, 0034, 0045, the content server is the monitoring apparatus, the content server is a computing device, which can be a variety of computing devices such as PDAs, wireless phones, and pagers, all of which can be worn by a user) including: means for detecting a code signal that forms the broadcast signal in combination with a programming signal used to perform the program, wherein the code signal corresponds to the broadcast program to which the audience member is tuned (Section 0025, the audience viewing events, which

comprise signals, are the code signals), and means for storing the detected code signal (Section 0025); means for outputting the detected code signal stored in said audience monitoring unit (Section 0025, the event information can be outputted to other computing devices); and communication means for transmitting the outputted detected code signal to a central processing station (Section 0025, the event information can be transmitted to other computing devices, which comprise CPUs).

Drake does not teach wherein said communication means communicates with a ReFLEX protocol.

Hansen teaches a pager that uses the ReFLEX protocol (Col. 4 lines 51 – 53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Drake with the ReFLEX protocol of Hansen for the purpose of enabling the pager of Drake to communicate.

Regarding Claim 4, Drake teaches a method for monitoring an audience member tuned to a program within a broadcast signal comprising: providing a portable audience monitoring unit adapted to be worn by the audience member (Sections 0025, 0034, 0045, the content server is the monitoring apparatus, the content server is a computing device, which can be a variety of computing devices such as PDAs, wireless phones, and pagers, all of which can be worn by a user); detecting with said portable audience monitoring unit a code signal that forms the broadcast signal in combination with a programming signal used to perform the program, wherein the code signal corresponds to the broadcast program to which the audience member is tuned (Section 0025, the audience viewing events, which comprise signals, are the code signals); storing the

detected code signal (Section 0025); outputting the detected code signal stored in said audience monitoring unit (Section 0025, the event information can be outputted to other computing devices); and transmitting the outputted detected code signal to a central processing station (Section 0025, the event information can be transmitted to other computing devices, which comprise CPUs).

Drake does not teach wherein said communication means communicates with a ReFLEX protocol.

Hansen teaches a pager that uses the ReFLEX protocol (Col. 4 lines 51 – 53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Drake with the ReFLEX protocol of Hansen for the purpose of enabling the pager of Drake to communicate.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S. Dean whose telephone number is 571-272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raymond S. Dean
June 5, 2007

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